

EXHIBIT A

1 VOL: I
2 PAGES: 1-247
3 EXHIBITS: 1-7

4 UNITED STATES DISTRICT COURT

5 FOR THE DISTRICT OF MASSACHUSETTS

6 * * * * * * * * * * * * * * * *
7 SHEILA J. PORTER, *
8 Plaintiff *
9 -vs- * Civil Action
10 ANDREA CABRAL; SUFFOLK COUNTY * No. 04-11935-DPW
SHERIFF'S DEPARTMENT; SUFFOLK *
COUNTY and CORRECTIONAL MEDICAL *
SERVICES, INC., *
11 Defendants *
12 * * * * * * * * * * * * * * * *

13 CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

14 DEPOSITION OF VIKTOR THEISS, ESQUIRE, a witness
15 called on behalf of the Plaintiff, in the
above-captioned matter, said deposition being
taken pursuant to the Federal Rules of
Civil Procedure, before Patricia M.
16 McLaughlin, a Certified Shorthand Reporter and
Notary Public in and for the Commonwealth of
17 Massachusetts, at the offices of Goodwin Procter
LLP, Exchange Place, Boston, Massachusetts, on
18 Tuesday, May 24, 2005, commencing at 10:05 a.m.

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21 McLAUGHLIN & ASSOCIATES COURT REPORTERS
22 92 DEVIR STREET, SUITE 304
23 MALDEN, MASSACHUSETTS 02148
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1 MS. CAULO: Objection.

2 A Yes.

3 Q What is that?

4 A I found in my dealings with Miss Mastrorilli
5 that she wasn't always up front.

6 Q What do you mean by that?

7 A We had interaction to try and select a new
8 training director. The old training director
9 had been removed. He had not done a good
10 job. There was a vacant position to be
11 filled. A committee was formed, including
12 myself, Gene Sumpter from the jail, now the
13 superintendent -- I don't know if he was
14 superintendent then or deputy
15 superintendent -- and Mary Ellen.

16 We all agreed that we would review the
17 candidates that submitted resumes and came to
18 a unanimous consensus on the selection. We
19 were prepared to make that recommendation to
20 the Sheriff and came to discover that Mary
21 Ellen had subsequently submitted her own
22 recommendation that differed from what she
23 had told all of us and that she was
24 advocating that her second in command at the

1 time, ADS Bill Furley, be given the slot of
2 training, despite having no history with
3 training, particularly with corrections
4 officer portions of the training.

5 That was very surprising that we would
6 all be in unanimous agreement expecting to do
7 a joint recommendation and then have someone
8 break ranks from that and do their own
9 independent recommendation. That really
10 colored my perceptions of what Mary Ellen was
11 capable of doing.

12 Q When did this happen?

13 A I don't recall exactly when. It was sometime
14 in '03.

15 Q Do you know if it was before or after
16 May 23rd, 2003?

17 A I can't recall at this point.

18 Q Was Miss Mastrorilli disciplined in any way
19 for the training selection situation?

20 A No, her recommendation was just given no
21 weight.

22 Q Did you have any other interactions with
23 Miss Mastrorilli that caused you to cast
24 doubt on the veracity of her report?

1 MS. CAULO: Objection.

2 A You'd have to ask her.

3 Q You don't have a sense one way or another as
4 to why she would write things down that
5 didn't happen?

6 A No.

7 Q How is it that the training episode causes
8 you to cast doubt on what she recorded in
9 this memorandum, Exhibit 4?

10 A Well, since I didn't see this for many months
11 after, whether that episode occurred right
12 before, shortly thereafter, to me it
13 indicates, combined with the errors
14 self-evident in the memorandum, that
15 Miss Mastrorilli is not always the most
16 accurate. I won't call her motivations into
17 question; you'll have to ask her. The
18 inaccuracy is there.

19 Q Miss Mastrorilli is no longer with the House
20 of Corrections, correct?

21 A She's left the department.

22 Q Was she fired?

23 A No.

24 Q Was she ever disciplined in any way for her

EXHIBIT B

1 issue here, which is about the
 2 whistleblower." Then the paragraph goes on
 3 to talk about people cooperating with the
 4 FBI; another person having prisoner abuse.
 5 "You have been accused of firing people for
 6 essentially going around you, whistleblowing
 7 to the FBI and others. What happened here?"

8 I was not going to get into the
 9 substance of that. I was not going to answer
 10 that question substantively, anymore than I
 11 would answer that question substantively if
 12 it didn't involve a whistleblower. If it was
 13 someone who was barred or terminated for
 14 another reason and any reporter asked me
 15 about the substance of the allegations, I
 16 wouldn't go into them. I might give a
 17 general response but would not go into them.

18 I'm not sure where it is, but at some
 19 point in here, Mr. Murphy raises it again and
 20 speaks about Miss Porter and some of the
 21 specific aspects of the claim. And I didn't
 22 go into it then either.

23 Q Sheriff Cabral, do you know a woman named
 24 Mary Ellen Mastrorilli?

1 position. And she had discussions with the
 2 other committee members. They, I guess, all
 3 agreed on their recommendations based on
 4 their interviews with these people.

5 She subsequently submitted a memo to me
 6 recommending two people for the position who
 7 were not part of the process, one of whom I
 8 believe hadn't even interviewed for the
 9 process. I recall having a discussion with
 10 her about the appropriateness of doing that
 11 since it went beyond who had appropriately
 12 applied for the position and given their
 13 qualifications for the position and why she,
 14 though she had been consulting with her
 15 fellow committee members, never raised these
 16 other two candidates' names or in the case of
 17 one even find out whether or not the person
 18 wanted to apply but then put forth a
 19 recommendation for that person.

20 There were a couple of other instances.
 21 One that I recall where -- I can't recall the
 22 person's position. Someone had left a
 23 position, and Mary Ellen sent out an E-mail
 24 to staff indicating that the position was

1 A I do.

2 Q What were the circumstances under which she
 3 ended her employment at the Suffolk County
 4 Sheriff's Department?

5 A I believe she got a job teaching at Boston
 6 University and resigned.

7 Q Had you ever had any occasion to impose any
 8 discipline upon Miss Mastrorilli?

9 A Not discipline. I had had some discussions
 10 with her.

11 Q What were those discussions?

12 A About her management style, about some
 13 decisions and some judgments that she had
 14 made.

15 Q What were the issues of her management style
 16 and what were the decisions or judgments that
 17 you were discussing?

18 A There were a few issues. The first that I
 19 can recall involved Mary Ellen being part of
 20 a committee to look for -- it was not a
 21 search committee, but a committee for a
 22 training director position, and there were
 23 candidates that properly applied for the
 24 position and were in the running for the

vacant and she was authorized to fill it.

She had had no -- first of all, in her
 capacity, she was not authorized to fill it.
 She had no conversations with anyone about
 whether or not that would be an appropriate
 thing to do. So she was told to retract the
 E-mail. I didn't speak with her directly, I
 don't believe, on that, but she was told to
 retract the E-mail and not take any more
 solicitations of people who were interested
 in the position.

A third instance that comes to mind is
 her interaction with the Office of Community
 Corrections within the Trial Court, and there
 were some significant problems in the working
 relationship between Mary Ellen and the folks
 from the Department of Probation. I had
 tasked her with creating a better
 relationship, so that our Community
 Corrections Department and the personnel at
 the Trial Court would be working better
 together and more efficiently.

Ultimately, as it turned out, the
 relationship was not improved, and in fact,

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2 other committee members. They, I guess, all
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6 recommending two people for the position who
7 were not part of the process, one of whom I
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11 since it went beyond who had appropriately
12 applied for the position and given their
13 qualifications for the position and why she,
14 though she had been consulting with her
15 fellow committee members, never raised these
16 other two candidates' names or in the case of
17 one even find out whether or not the person
18 wanted to apply but then put forth a
19 recommendation for that person.

20 There were a couple of other instances.
21 One that I recall where -- I can't recall the
22 person's position. Someone had left a
23 position, and Mary Ellen sent out an E-mail
24 to staff indicating that the position was

1 vacant and she was authorized to fill it.
2 She had had no -- first of all, in her
3 capacity, she was not authorized to fill it.
4 She had no conversations with anyone about
5 whether or not that would be an appropriate
6 thing to do. So she was told to retract the
7 E-mail. I didn't speak with her directly, I
8 don't believe, on that, but she was told to
9 retract the E-mail and not take any more
10 solicitations of people who were interested
11 in the position.

12 A third instance that comes to mind is
13 her interaction with the Office of Community
14 Corrections within the Trial Court, and there
15 were some significant problems in the working
16 relationship between Mary Ellen and the folks
17 from the Department of Probation. I had
18 tasked her with creating a better
19 relationship, so that our Community
20 Corrections Department and the personnel at
21 the Trial Court would be working better
22 together and more efficiently.

23 Ultimately, as it turned out, the
24 relationship was not improved, and in fact,

1 it worsened. And Mary Ellen did not wish for
2 the contract with OCC to continue. In my
3 opinion, she let it lapse. She did not
4 inform the Chief of Staff, nor did she inform
5 me, that it was up for renewal. She let it
6 lapse, and they put the contract out to bid.
7 That created a significant problem for us.
8 It was my desire to continue working with OCC
9 even though there were some issues with the
10 contract. It was my desire to continue
11 working with them. I had a conversation with
12 her about that.

13 There were a couple of other things. I
14 don't recall everything right now, but there
15 were some -- Mary Ellen worked in corrections
16 for a number of years. She had worked at
17 front line corrections, and I had a great
18 deal of respect for that. I remember
19 specifically Chief Keeley and I working with
20 her to sort of empower her as a manager, as
21 we had done with other managers, and to sort
22 of bring her along in her supervisory role,
23 but there were these lapses. I had occasion
24 to speak with her more than once about the

1 Q Is it your belief that she made statements to
2 you that were not accurate?

3 A It was more that there had been more than one
4 occasion where there had been a conversation
5 with Mary Ellen, and I left the conversation
6 and in some cases others who were present
7 left the conversation believing that everyone
8 was on the same page, that what was said to
9 her was understood by her. And then
10 something would happen or she would make a
11 decision that would indicate that she didn't
12 understand at all.

13 When I asked her about the
14 recommendation of the two people for the
15 training director job and why she thought it
16 was appropriate to at the eleventh hour, when
17 we were dealing with finalists, make
18 recommendations of people, one of whom hadn't
19 even applied for the job, she didn't really
20 have a good response to this as to why she
21 thought it was appropriate.

22 So there were more conversations with
23 her about her role as a manager and the kind
24 of judgment that one needs to exercise. I

1 believe Elizabeth Keeley had the conversation
2 with her about her sending out the E-mail
3 saying that she was authorized to hire
4 someone for a position, but I know that in my
5 subsequent conversation with Elizabeth about
6 it, there was that same question about it
7 seems as though she understands what you're
8 saying when you say it to her but then
9 there's a decision that's made.

10 I think there was an incident where she
11 wanted to bar someone for something. I can't
12 remember exactly who, but she had to be
13 stopped from doing that by the Chief of
14 Staff. So it wasn't an issue where I felt
15 that she was being dishonest with me, but I
16 had cause to question whether or not she
17 fully absorbed what was being said to her and
18 had the ability to sort of act on it.

19 Q What do you know about the circumstances of
20 where she was attempting to bar someone?

21 A I have a recollection that there was a
22 circumstance. I can't remember now who it
23 was or what the specifics of it were.

24 Q How did it come to your attention?

1 A Through my Chief of Staff.

2 Q What was she reporting to you as to what the
3 problem was?

4 A What I remember about it was that there was
5 some -- I believe it was -- clearly, if it
6 was a barring, it would have been a contract
7 worker. Mary Ellen wanted to bar this person
8 on her own. She wanted to go to them and say
9 you're barred. That's what I recall of it.
10 I recall that I believe it was the Chief of
11 Staff that interceded.

12 Q What would be inappropriate of someone at
13 Miss Mastrorilli's position barring a
14 contract worker?

15 A She doesn't have the authority. Unless it's
16 something that is a very egregious or exigent
17 circumstance that would require immediate
18 action, she simply doesn't have the authority
19 without speaking with either the Sheriff or
20 the Chief of Staff to do that.

21 Q Had there been reforms instituted by you that
22 moved disciplinary authority down to
23 different levels than they had previously
24 been in the Sheriff's Office?